TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE Transcriber's Office FLOOR DEBATE

February 8, 2002 LB 752

main parts of Senator Chambers' bill. You will recall that the two parts are, one, the procedure of a pretrial hearing to determine whether evidence is reliable or probably reliable; and the second part is the giving of notice of certain information in advance. This part of the amendment does nothing with respect to changing the notice provision or the requirements pertaining to the notice. It does, however, strike out entirely the whole requirement for a pretrial hearing. I...I want to characterize this as accurately as I can in terms of my own judgment about it, I guess. And I would start out reiterating that Senator Chambers is focusing on what I believe to be a real problem, certainly the result of the round of DNA cases that have struck the nation the last couple of years. The advent of a greater technology has revealed, to some extent, weakness in our system and it has to do with these informers. And when I first saw this provision, I really drew back from it because the thing, again, that I am most sensitive to is a public perception of the criminal justice system that allows people to get off for procedural reasons of one type or another. And you and I understand the underlying basis for that, it's a kind of an enforcement mechanism in a sense. But, nonetheless, the short-term result of that is to undermine credibility in the criminal justice system. And my fear with this is that information will get out from time to time that people will believe means that testimony that could have been used to convict somebody that they thought should be convicted was not used and they got off, and then we have reverberations that come through this Legislature and reflect back on the criminal justice system. On the other hand, something does need to be done about this problem. And so I guess what I'm telling you this morning is, that I'm going to vote for striking Section 2, but I think it's a close question, and I'm not going to feel uncomfortable whether the Legislature goes one way or the other, and each person is going to make up...have to make up their mind the extent of risk that they are willing to take to put into something that appears to be, from what we heard yesterday, a new way of dealing with this problem. And maybe we need to give it a try. Maybe what Senator Chambers has come up with will turn out to be what becomes a natural part of our criminal justice system across the nation here eventually, but we are a little bit out front with it. So I think yesterday